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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/518,699	03/03/2000	Martin S Berger	B-66383	7109

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EXAMINER

RUDY, ANDREW J

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 01/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/518,699

Applicant(s)

BERGER, MARTIN S

Examiner

Andrew Joseph Rudy

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

DETAILED ACTION

1. Claims 1-42 are pending. Applicant's 4 November 2002 Amendment has been reviewed.

*Response to Amendment*

*Claim Rejections - 35 USC § 112*

2. Claims 8, 11, 23, 32-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 8, 23 and 32 were not corrected. Applicant's comments have been reviewed, but are not convincing. Each acronym must be clearly identified in the specification and properly claimed. It is suggested that the terms "standard industrial classification (SIC)" and "north american industry classification system (NAICS)" may be inserted into claim 8 to overcome this rejection.

Claims 33 and 35 recite plural customer and industry stations, while the claims each depends upon does not require such. As is, it is not clear what Applicant is claiming. It is noted that the term "respectively" does not cure this deficiency.

*Claim Rejections - 35 USC § 103*

3. Applicant's comments have been reviewed regarding Eder. As a result of this Amendment and Applicant's comments, the rejection under 35 U.S.C. 103(a) as being unpatentable over Eder is hereby withdrawn.

4. Claims 1-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shear, US 5,410,598.

Shear discloses data stored in a host computer 200 allowing the data to be shared, when authorized, with consumer station, e.g. col. 14, lines 53+, or industry station via connector 306 that via memory 314 allows for later retrieval that determines interest in the intellectual property (IP) item that may include survey information, e.g. see claims 22, 36, 47, 51, 84 of Shear. Shear may restrict access to the IP contained within the host computer as needed. To promote IP by accessing the survey information to determine the degree of interest in the IP item based on the survey information would have been obvious to one of ordinary skill in the art. Doing such would use well known marketing tools that is standard practice within the consumer product industry. It is further noted that it is well known and common knowledge to locate IP material from a host station via a consumer station having another station associated along with the IP procurement process. To have provided such for Shear would have been obvious to one of ordinary skill in the art. Doing such would use common knowledge computer link-ups.

5. Further pertinent references of interest:

Parker et al., US 2002/0052774 A1, discloses survey information.

Bowman-Amuah, US 6,427,132, discloses in col. 61, lines 45-67, incentives associated with survey information.

Schultz, Jr., US 6,233,564, discloses survey information usage.

Bowman et al., US 6,169,986, discloses survey information usage refinement.

Perkowski, US 6,064,979, discloses IP product information available from a host station linked to another station via a consumer station.

Garg, US 6,009,407, discloses survey information used in marketing decisions.

Perkowski, US 5,950,173, discloses IP product information available from manufacturers and transmitting the information to Internet based databases.

Smolen, US 5,915,243, discloses promotion criteria used in a database.

Adiano, US 5,278,751, discloses survey information in claim 3.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Joseph Rudy whose telephone number is 703-308-7808.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Robert Olszewski can be reached on (703) 308-5183. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

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January 9, 2003

  
Richard Chilcot  
Patent Examiner  
Technology Center: 2853  
36 00

